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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/628,126	07/28/2000	Raymond G. Goodwin	2804-1	3935

22932 7590 04/28/2003

IMMUNEX CORPORATION
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EXAMINER

HUFF, SHEELA JITENDRA

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 04/28/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/628,126

Applicant(s)

GOODWIN ET AL.

Examiner

Sheela J Huff

Art Unit

1642

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED

FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 14 April 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 27-30,32,33,38-40,42,43,45,50-66 and 68-70.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____



Sheela J Huff
Primary Examiner
Art Unit: 1642

Continuation of 3. Applicant's reply has overcome the following rejection(s): the rejections under 112 first paragraph and 112 second paragraph..

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that the specification is not available as prior art. Page 15 was used to show what is already known in the art. Applicant argues that Thorpe et al does not teach or suggest CD30 ligand polypeptides. Col. 4, lines 50+ show that the patent has envisaged other binding ligands and that is all the patent is used for. Applicant argues that Verheul does not show CD30L. That is not why this WO document was cited. Applicant argues that the 131 declaration overcomes the Smith et al and Goodwin et al references. The declaration merely shows that applicant has possession of the peptides before the publication of the references. The issue is of inventorship not priority. A Katz declaration will overcome the Smith et al reference. The Goodwin et al reference can be overcome by a 132 declaration as discussed in Ex Parte Magner, Long, Ellis and Grinstead (133 USPQ 404 (1962)).